THE KANSAS QUESTION.

THE MINORITY REPORT

OF THE

SELECT COMMITTEE OF FIFTEEN.

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REPORT OF THE MINORITY.

The undersigned members of the Select Committee of Fifteen, of the House of Representatives, appointed to investigate certain matters in relation to Kansas, disagreeing with the views and conclusions of the majority in the written statement submitted by them, will, with the permission of the House, present a counter-statement.

After a protracted struggle in the House, commencing on Friday, February 5th, the following resolution was adopted:

"*Resolved*, That the message of the President 'concerning the Constitution framed at Lecompton, in the Territory of Kansas, by a Convention 'of delegates therein, and the papers accompanying the same, be referred to a select committee 'of fifteen, to be appointed by the Speaker. That 'said committee be instructed to inquire into all 'the facts connected with the formation of said 'Constitution, and the laws under which the 'same was originated, and into all such facts 'and proceedings as have transpired since the 'formation of said Constitution, having relation 'to the question of propriety of the admission of 'said Territory into the Union under said Constitution, and whether the same is acceptable 'and satisfactory to a majority of the legal voters of Kansas. And that said committee have 'power to send for persons and papers."

ACTION OF THE COMMITTEE.

The circumstances under which this order of the House was passed are fresh in our memories, and well calculated to make an impression upon the country. The subject of Kansas affairs from the start has been surrounded with many difficulties. The President, who is charged by the Constitution to give to Congress information from time to time, has essayed to perform this duty, but with so little success, that the House deemed something more required—so little in fact that, of five Governors, selected by himself or his predecessor for the Territory of Kansas, there is not one that is not now at open issue with the President's statements and conclusions; and these persons, having all been deprived of office by Executive power, guilty of the delusion of carrying out their written instructions instead of the higher law of party, may have been referred to among those described in the late message, as "in a state of rebellion against the Government under which they live."

Some of the men who have held the office of Governor of Kansas have been statesmen of ripe experience, and, from their official relation and personal observation, were as well qualified to present a statement of the true condition of affairs as any man in the nation, from the highest to the lowest. The statements of these men cannot be invalidated by charging *them* with a complicity in "abolition movements." Their birthplaces and party associations will challenge all allowances for any leaning as against the President of their choice. If they testify against him, it must be on compulsion. While we listen to the eager statements and elaborate arguments of the President, venerable for his age and length of service, we ought not to turn a deaf ear to the reluctant facts and logic extorted from those in the full vigor of manhood, and with the largest opportunities for accurate information. But the majority of the committee have promptly defeated all resolutions presented to obtain further evidence from this source, although the witnesses were at hand, and might have been examined with little delay and little expense. The majority appear to have adopted a fixed line of argument in behalf of the Lecompton Constitution, and all facts which might obstruct that line of argument they appear to have regarded as irrelevant; therefore unnecessary to them, and if so, useless to the minority.

The House decided we should inquire into all the *facts, proceedings, and laws*, relating to the propriety of the admission of Kansas into the Union, and also whether the Constitution is "acceptable and satisfactory to a majority of the legal voters;" but the majority assume that there are no facts or proceedings embraced, which are not already in possession of the House—resting the case, not upon its equity or propriety, but upon the allegation that the record is complete, and refuse to change or set it aside for any fraud, whether proven or not. They seem to assume there is a bond which, *prima facie*, gives to them the pound of flesh; and, refusing all inqui-

ry into its validity, inexorably demand the penalty, and to be cut off nearest the heart of Kansas. This assumption, like the refusal to submit the Constitution of Kansas to a full and fair vote of the people, is a confession that a thorough investigation would show this extraordinary document was not legally formed, made, or adopted; and that, instead of being acceptable and satisfactory to a majority, it is hated, scorned, and will be resisted by the people of Kansas to the last extremity, and therefore ought to be rejected. With the power accorded to the committee by the House, to send for persons and papers, we might have established this beyond all cavil, though now established beyond all legal or moral doubt; but the minority, at the first step, were voted down by the majority, as they were upon all the main issues or resolutions presented, save one, which called for a statement made by John Calhoun, of little consequence, and no legal authority, and supposed to be favorable to the views of the majority. This statement, the records show, the majority were ready to receive and have used—loose, irresponsible, and *ex parte* as it was—while they refused to summon the same witness, and have him examined under the sanction of an oath! Can it be possible they would have us give credit to the *statements* of a witness whose *oath* they decline?

If this witness had been sworn, he would have been called upon to testify whether the Constitution had not been subjected to as great manipulation, while in his hands, as the returns of Delaware Agency. There was, at the time, as much mystery hanging over his non-publication of the Constitution, as there has been since over his non-publication of the returns of the January election. Proved to be a *particeps criminis* in one fraud, where he was even less suspected than the other, we are not satisfied the Lecompton Constitution, as presented, is the one, in all its parts, which was agreed to by the delegates *while assembled* in Convention.

The action of the majority of this committee will doubtless be explained by themselves; but it does not appear to us as defensible, nor can we believe it will prove more acceptable and satisfactory to the House than was the action of the Lecompton Convention to a majority of the people of Kansas. Instead of investigating the facts for the action of the House, the majority tender their *views*, and these they ask the House, without investigation, to adopt. Foreign as we conceive this to be from our duty, we are compelled to follow the example thus set.

THE MATERIAL QUESTIONS.

The questions of inquiry upon the application of new States have been—

1. *In relation to the sufficiency of population.* Here, while this may be conceded, we emphatically deny that any such sufficiency have had any part or lot in the Lecompton Constitution.

2. *Is the Constitution republican in its form?* This we deny, on the ground that no Constitution *can* be republican which was neither made by nor embodies the will of the majority. The third query, as propounded by Mr. Buchanan in the case of Michigan, is—

3. "*Are they waiting to enter the Union on the terms we propose?*" No! Fifteen thousand voters can be counted to-day in Kansas, who look upon the terms with abhorrence, and, if there be twenty-five hundred in favor of it, they have only said so when coupled with the land grab, in the ordinance, which *we* do not "propose." There is no authority for saying that ANYBODY in Kansas is *waiting to enter* on our terms. The majority of this committee slur this inquiry, and place instead another, touching "the regularity of the proceedings." *That* is equally fatal to their argument, as it suggests the need of an enabling act on the part of Congress. No such act was passed.

In the case of Michigan, already referred to, Mr. Buchanan said:

"No Senator will pretend that their Territorial Legislature had any right whatever to pass 'laws enabling the people to elect delegates to a 'Convention for the purpose of forming a State 'Constitution. It was an act of *usurpation* on 'their part."

So far as "regularity" is concerned, the action of the Territorial Legislature is illegitimate without the authority of Congress. Irregularities are indeed overlooked, when the people are waiting to enter the Union on the terms proposed, and when the Constitution embodies the sense of the majority, but never otherwise; and ten times never, when the "regularity" is confined to that hammered out of persistent links of fraud.

THE PARTISANSHIP OF THE PRESIDENT.

The President, in his recent message, assumes to draw a dividing line between the parties in Kansas, styling one as "loyal," and the other as "enemies to the Territorial Government," meaning thereby to cast odium upon those who prefer a *Free State* Constitution to the Constitution with *Slavery*. It is not a little remarkable, that all the proceedings of the Pro-Slavery party in Kansas, in the eye of the President, are marked by entire *regularity*, and without any "official information," or sign of fraud or violence, while the Free State party cannot give vent even to the "still small voice" of petition, without eliciting an Executive proclamation of insurrection. While he elevates and dignifies the minority with the name of the "people," the majority are, in his opinion, rebels, guilty of a "treasonable pertinacity," and can only be restrained "from their assaults by the troops of the United States." These are grave imputations.

But we deny all of the Executive charges or insinuations against the people of Kansas. An *enemy* of the Government is one who plots its overthrow in order to establish some other *form* of government. A *rebel*, or revolutionist, is one who seeks *by force of arms* to accomplish such a purpose. The people of Kansas have aimed at nothing of this sort, and repel the imputation. They are not disloyal to any Government to which they owe allegiance. They reverence the principles of the old and *once*-honored Declaration of Independence, and are resolved to maintain them: that "all Governments derive their just powers from the consent of the governed."

Whether Congress, in the Kansas and Nebraska act, intended to abdicate its power over the Territories in favor of "squatter sovereignty," or not, certainly by proclaiming *non-intervention* it never conferred upon the Executive the power of intervention "to form and regulate their domestic institutions." Yet to this complexion has it come, from evidence already on the record, and which might have been made still more ample and complete, had the committee been allowed to send for persons and papers.

From the foundation of the Government until the unfortunate act of Congress which, artfully dodging an open repeal, declared a former act, known as the Missouri Compromise, "inoperative and void," the power of Congres over Territories had always been claimed and exercised. During all this time, no turbulence or rebellion was charged upon the people of any Territory, and it is now for the first time hinted that a Territory has "occupied too much of the public attention." In all this time, it has never been pretended that the people of a Territory or a State about to frame a Constitution had not perfect liberty to do it in their own way. The practical results in Kansas prove the power and the sovereignty of the people *there* as "inoperative and void" as that of a neutral Congress. But the power disowned and turned loose by Congress has been seized by the Executive, whose frowns or smiles, "dragoons and a battery," or official patronage, *localize* and subdue all opposition.

The Lecompton Constitution, if it had been submitted to the ratification of the people, and had received the assent of an indisputable majority, could not supersede a true and legal Territorial Government, and would be no better than so much waste paper without the sanction of Congress by the admission of Kansas as a State. But the President declares that Kansas "is at this moment as much a slave state as Georgia and South Carolina." Believing this, and supported by "the highest judicial tribunal known to our laws," the President, at this precise moment, and not before, discovers that "the affairs of this Territory have engrossed an undue proportion of public attention." There is some "excitement," to be sure, but he is for having it "localized," and thus "let it die away." We can perceive no reason for faith in the remedy of the President, only on the principle that it is strong enough to *kill or cure*. Mr. Stanton declares:

"If Congress will heed the voice of the people, 'and not force upon them a Government which 'they have rejected by a vote of four to one, the 'whole conntry will be satisfied, and Kansas will 'quietly settle her own affairs, without the least 'difficulty and without any danger to the Con-'federacy."

Gov. Walker is not less emphatic in asserting that, "even as late as the 3d of July, 1857," "none contended that Slavery could be established there," and in denouncing "the extraordinary paper called the Lecompton Constitution."

Here are widely discrepant statements, to be weighed calmly, as they may or may not rest on a solid foundation of truth. This committee was created expressly to elucidate such disputed points as these; "to inquire into all the facts," and "whether the Constitution is acceptable and satisfactory to a majority of the legal voters of Kansas." To stop short of this, would be to disobey the order of the House—an offence, when committed by an individual, punished as a contempt of the authority and dignity of the House. Undoubtedly a full and fair investigation would bring out more conclusively facts showing that the Constitution was regarded at the time it was framed, and is now regarded by a majority of the people, then and now, with the fiercest hate, and the refusal of the majority of the committee to enter at all into such an investigation is a significant confession of the fact. If they had nothing to fear from it, why shun it? They say it would be "impracticable." That is not our opinion, but it is our opinion the FACTS would be "impracticable."

But history has made up its record of *facts*, of *laws*, and of *proceedings;* and whatever special pleading may undertake to rule out as irrelevant, enough will stand to show that the Lecompton Constitution can be imposed upon Kansas only by a greater outrage than any in the long series which the people of that Territory have been forced to endure.

THE LECOMPTON CONSTITUTION.

The President of the United States has transmitted the "extraordinary paper called the Lecompton Constitution" to the Senate, the fruit of a Convention organized on a popular vote of less than one-half of the Territory, and of that half only a small fraction of the people appeared at the polls. In the letter of Gov. Walker to Mr. Cass, he says:

"Surely, then, it cannot be said that such a 'Convention, chosen by scarcely more than one-'tenth of the present voters of Kansas, repre-'sented the people of that Territory, and could 'rightfully impose a Constitution upon them 'without there consent. These nineteen counties, in which there was no census, constituted 'a *majority* of the counties of the Territory; 'and these fifteen counties, in which there was 'no registry, gave *a much larger vote* at the 'October election, even with the six months' 'qualification, *than the whole vote given to the delegates who signed the Lecompton Constitution on the 7th November last.*"

The law was imperative, and a non-compliance, in whole or in part, as to taking the census or the registry, is fatal. The law authorizing the election of delegates prohibited all persons not registered from voting. "At such election, no person shall be permitted to vote unless his name shall appear in such corrected list." (Section 8.) This and other important requirements of the law were notoriously not complied with. The citizens of Anderson county, instead of resisting a census and registration, when that duty was neglected by the judge of probate, caused it to be taken themselves, and, upon the advice of Gov. Walker, they elected delegates to the Convention. We have it, not only upon the authority of Gov. Walker, but upon that of both reports,

made by the Committee on Credentials in the Lecompton Convention, that—

"*The people of Anderson county are in no way responsible for the failure of being represented in the Convention, in conformity to the Kansas statutes.*"

Yet these delegates were refused their seats, and the citizens of Anderson county, by their memorial, implore Congress not to bind a Constitution upon them, in the forming of which they were entirely shut out, and that for no fault of their own.

The apportionment, upon which all the vexed questions might turn, rested upon the strict execution of the law. If it be admissible to exclude *one* county, then all but one may be excluded. If two thousand voters may be disfranchised, then all but two thousand may be disfranchised. We repeat, this omission, no matter by what neglect, is fatal. The message of the Acting Governor of Kansas, dated December 8th, 1857, declares:

"At the election which followed, in pursuance of the law, [providing for the Convention,] only two thousand two hundred persons, being less than one-fourth of the registered voters, participated in any manner in the choice of delegates, either by voting for those elected or for other persons. The average aggregate vote, in favor of the successful candidates, was about eighteen hundred."

The number of delegates was sixty, and this would allow an average of thirty voters, good and bad, to each delegate. Surely, a small fragment of the people to be allowed to control the destiny of a State! As it was, however, expected by the people that an opportunity would be had to ratify or reject the Constitution to be made by these delegates, their election might be justly regarded with indifference. They of course received all the votes of the Pro-Slavery men in the Territory. Yet the registry showed at that time there were 9,251 voters in the counties registered, and the omissions in these counties were confessedly large. Of these sixty delegates, but forty-three participated in the work of the Convention. Sessions were held without a quorum, and the yeas and nays often show that but few above thirty were present. It is understood, and not denied, that but twenty-eight of these—less than half of a full house of sixty—decided the Pro-Slavery or Free State question; and upon the question of submission of their work to the will of the people, the Pro-Slavery party carried the point by a majority of two votes only. It is quite in keeping with the character of this body and its officers, to find the journal of its proceedings for the last days missing.

Upon such a slender foundation as this rests the Constitution made at Lecompton. A large majority of the people did not vote for the delegates, and so many of the delegates either refused to have anything to do with the Convention, or, being present, voted against the most obnoxious provisions inserted in the Constitution, that it was in fact the product of a minority of the delegates, elected by a minority of the people. Thus, first, the number of the people who *could* vote is reduced. Second, the number who *did* vote was reduced. Third, the number of delegates elected, but who did not appear, is reduced by the absenteeism of nearly one-third, who regarded the whole business as a shameless fraud. Fourth, those who appeared in the Convention, voting with the majority, were reduced to less than half of its legally-constituted numbers on all test questions The will of the people was here so successively reduced, and diluted step by step with fraud, that nothing but a homeopathic quantity is left; and those who represent that *small dose* may, "by death, emigration, or change of opinion," no longer do so.

The character of this Convention was disclosed in almost their first act, which was the election, "by acclamation," of a Mr. Hand for their clerk, one of the detected ballot-box stuffers, who had just made the fraudulent returns for the county of Oxford. It is clear they did not shrink from rewarding with honor one the public sense regards as forever linked with infamy, and that they held this Mr. Hand their fit associate, and an instrument of obedience to that high command, "Let not thy left hand know what thy right Hand doeth."

THE CONVENTION ILLEGAL.

We claim that this Convention could not make a valid Constitution—

1. Because, whatever inherent power the people may possess, Congress refused all legal authority to the Territorial Legislature to call the Convention, though urged by President Pierce.

2. Because the Legislature which created it was itself the creature of fraud and foreign invasion, and that this usurpation was never consummated by the acquiescence of the people.

3. Because the act of that Legislature, passed February 19, 1857, to "provide for taking a census, and the election of delegates to a Convention," was never fairly executed. The census was incomplete, the registry was incomplete, the apportionment was incomplete, and the number of delegates assembled was incomplete.

4. Because, through the nefarious apportionment, the threatened exclusion from the polls, unless coupled with the payment of a tax to support a Government imposed upon them by high-handed outrages, through lack of all confidence of protection at the polls from violence and fraud, the majority did not and could not participate in the election of delegates, and it was thus composed of a mere faction, entitled to no regard.

5. Because the most noted delegates pledged themselves to submit their work to the ratification or rejection of the people—thereby securing their election—afterwards betrayed their trust, and did not so submit the Constitution.

6. Because it is not, in fact, the work of a majority of the whole Convention.

7. Because the legislative, judicial, and executive powers conferred upon John Calhoun transcended the power of the Convention, and their exercise was entirely illegal, and therefore null and void.

THE CONSTITUTION NEITHER SATISFACTORY NOR ACCEPTABLE.

This Constitution was partially submitted, to be partially voted upon, to the people of Kansas,

December 21, 1857, and 6,143 votes were *counted* for the "Constitution with Slavery," and 569 votes for "Constitution with no Slavery"—leaving a majority of 5,574 for the "Constitution with Slavery." But against this, we have the statement of C. W. Babcock, President of the Council, and G. W. Deitzler, Speaker of the House, officers of the Territorial Legislature, invited by John Calhoun to represent on the occasion of opening the returns, January 13, 1858, who say:

"More than one-half of this majority was cast 'at those very sparingly-settled precincts in the 'Territory, two of them in the Shawnee Reserve, 'on lands not open for settlement, viz:

Oxford, Johnson county - - -	1,266
Shawnee, Johnson county - - -	729
Kickapoo, Leavenworth county -	1,017
Total - - - - - -	3,012

"From our personal knowledge of the settlements in and around the above places, we have 'no hesitation in saying that the great bulk of 'these votes were fraudulent; and taking into 'view other palpable but less important frauds, 'we feel safe in saying that, of the whole vote 'polled, not over 2,000 were legal votes, polled 'by citizens of the Territory."

The Board of Commissioners of the Kansas Legislature have fully developed the fraudulent and worthless character of this vote, to which we refer elsewhere.

The same officers of the Legislature, with J. W. Denver, Secretary and Acting Governor, certify, January 14, 1858, that there were cast, at the election held on the 4th of January, 1858, 10,226 votes against the Constitution formed at Lecompton, 133 votes for it with Slavery, and 24 votes for it without Slavery. This included only the votes received up to that time, and the total was afterwards increased to over 11,000. We have also the *protest*, presented to the House, February 1, 1858, by the Delegate from Kansas, of the Legislature of the Territory, and the Legislature whose authority is least assailed.

"*Preamble and joint resolutions in relation to the Constitution framed at Lecompton, Kansas Territory, on the 7th day of November*, 1857.

"Whereas a small minority of the people living in nineteen of the thirty-eight counties of 'this Territory availed themselves of a law which 'enabled them to obstruct and defeat a fair expression of the popular will, did, by the odious 'and oppressive application of the provisions and 'partisan machinery of said law, procure the 'return of the whole number of the delegates of 'the Constitutional Convention recently assembled at Lecompton: * * *

"And whereas a minority—to wit: twenty-'eight only of the sixty members of said Convention—have attempted, by an unworthy contrivance, to impose upon the whole people of this 'Territory a Constitution, without consulting 'their wishes, and against their will: * * *

"*Be it therefore resolved, by the Governor and Legislative Assembly of Kansas Territory*, That the people of Kansas being opposed to said Constitution Congress has no rightful power under 'it to admit said Territory into the Union as a 'State, and the representatives of said people do 'hereby, in their name and on their behalf, solemnly protest against such admission."

At the recent session of the Territorial Legislature, an act was passed providing for a new Convention to form a Constitution in accordance with the will of the people. An act also passed one branch of the Legislature to prevent any person from carrying into effect and operation the Lecompton Constitution. The regularity and the import of these proceedings admits of no doubt.

In addition, we have the *official* authority of the President himself to show that the Constitution, pretended to have been legally made at Lecompton, is not one which is satisfactory to a majority of the people of Kansas, who, he says, would "long since have subverted the Territorial Government, had it not been protected from their assaults by the troops of the United States." While they would have done all this "long since," they are no less resolute now, as "up to this moment," he says, "the enemies of the existing Government *still adhere* to their revolutionary plans and purposes with treasonable pertinacity." Why should they *subvert* the Territorial Government, and still *adhere* to this purpose, but to avoid the Lecompton Constitution?

If men are presumed to go to the polls as equals, we have five times the authority for rejecting the Lecompton Constitution to what we have for receiving it. No man, probably, in the House or out of it, will pretend that this Convention represents the will of the majority of the people of Kansas. Even John Calhoun does not pretend that. If they are in rebellion, it is a rebellion formidable to tyrants only. To impose such a Constitution upon such a people by superior force would be a tyranny akin to the subjugation of Poland and Hungary, and would shame us into silence on that topic forever. To impose it would not only be a fraud upon the people, but a gross violation of the Kansas-Nebraska act, and therefore, in the eyes of some, a greater crime. It would be a fraud, because the Convention pledged to do exactly the reverse, prepared their work so as to exclude the majority from the polls, if they would not first swear to support that which they could have no honest intention of doing. The test oath is as follows:

"Sec. 9. Any person offering to vote at the aforesaid election upon said Constitution shall, if challenged, take an oath to support the Constitution of the United States, and *to support 'this Constitution*, under the penalties of perjury under the Territorial laws."

Before the section of the Constitution which was submitted could be voted upon at all, the person must take an oath to support the Constitution itself, under the penalties of perjury! This was not the only obstacle to be encountered. It will be seen by reading the 7th section of the schedule that it set out with very broad declarations, which tapered off to a very narrow point at the end. Thus:

"Before this Constitution shall be sent to 'Congress, asking for admission into the Union

' as a State, *it shall be submitted to all* the white ' male inhabitants of this Territory, for *approval* ' or *disapproval*."

Certainly, the people of Kansas could not complain of that, nor of its further reiteration, as follows:

"At which election, the Constitution framed ' by this Convention shall be submitted to all ' the white male inhabitants of the Territory of ' Kansas in the said Territory upon that day, and ' over the age of twenty-one years, for *ratification* ' or *rejection*, in the following manner and form. ' The voting shall be by ballot."

But now comes a sudden contraction. Notwithstanding all the unstinted and solemn assurance about approval or disapproval, ratification or rejection, it is to be at last submitted in just this form and no other, viz:

"The ballots cast at the said election shall be ' endorsed, 'Constitution with Slavery,' or 'Constitution with no Slavery.'"

Here all other provisions of the Constitution, including the monstrous apportionment based on counties having manufacturing establishments ready upon the shortest notice to turn out 1,266 votes with only 33 voters, were *ratified* and *approved* by the Convention, and made irrevocable "to all the white male inhabitants," at a single leap, and even the Slavery question was not squarely nor fairly submitted. If the "Constitution with no Slavery" had been adopted, it was only a delusion, as the schedule still goes on to say:

"Except that the right of property in slaves now in the Territory shall in no manner be interfered with." Vote as they pleased, and the Constitution must be adopted, and one vote in its favor could not be overcome by a hundred thousand against it. The Wandering Jew, or Mr. Hand, with a single ballot, could fix its legality, so that the *protest* of all the people of Kansas, though as numerous as all the Tribes of Israel, would be ruled out by the Executive, and especially by a majority of this committee, as irrelevant, and as no sort of consequence. Vote as they pleased, and Slavery was to remain there still, never to be diminished, but subject to all the laws of natural increase; and the President informs us that Kansas is now no less a slave State than Georgia or South Carolina. Ratified or not, approved or not, the "Constitution with Slavery" was to be fastened forever upon the Territory.

We were directed by the order of the House to inquire into "all the facts" connected with the formation of the Lecompton Constitution, into all subsequent proceedings, and as to "whether the same is acceptable and satisfactory to a majority of the legal voters of Kansas."

This not only admits that the negative of the last branch of the proposition would be fatal to the validity of the Constitution, but admits that the documentary evidence in the possession of the House is insufficient to prove the affirmative, and further recognises the propriety of an inquiry into the fact, whether a majority of the people of Kansas have made their will known and felt as they were to be "perfectly free" to do. This right is one conceded by the theory and practice of our Government, which no more admits the right of minorities, with a "treasonable pertinacity," to control majorities in the formation of Constitutions, than in popular elections. To suppose otherwise is an absurdity, especially so far as Kansas is concerned, as the organic act declares the people there "perfectly free to form and regulate their domestic institutions in their own way." Congress is thus bound by its own honor to see that its power is not encroached upon, and that the domestic institutions of Kansas *are in fact* formed and regulated by the people of Kansas, not by usurpers at home or abroad, and not by the Executive nor by the Supreme Court. Even these last are as much intruders as any border-ruffian invaders.

ALL FINALITIES REPUDIATED.

By the Missouri Compromise, a division line established in 1820, and forced upon the free States mainly by Southern votes, Kansas was to be free, and Slavery was "forever prohibited" in all the Territory now embraced in Kansas and Nebraska. By this division, the South gained the admission of Missouri as a slave State, and have greatly increased their unequal political power—the supreme object of all schemes for the extension of Slavery. Louisiana, Arkansas, Florida, and Texas, all lying south of the Compromise line, have been admitted as slave States. These five slave States have ten Senators and sixteen Representatives. So long as this division was an advantage to the Southern States, it was maintained by them. But when a free State was likely to be formed north of this line, in the now disputed Territory, Slavery claimed that also. In 1854, in violation of all the legal and honorable obligations which adhered to the Compromise of 1820, it was repealed by an Administration almost as intensely Pro-Slavery as the present. The South thus repudiates all its final settlements—even the finality act of 1850—and reopened Slavery agitation. The whole subject was referred to the people of the Territory, and they were to be perfectly free to do all things in their own way. The question was to be taken out of Congress. Such was the pledge, and the sequel evinces this also will be observed no longer than while it can be made to operate advantageously to the interests of Slavery extension.

PLEDGES FOR SUBMISSION.

The doctrine of the sovereignty of the people was enunciated, as the annual message of the President relates, by "the resolution adopted on a celebrated occasion," that is to say, by the Cincinnati Convention—being part of the platform from which the President agreed not to take or add a single plank. Here it was declared that:

"The right of the people of all the Territories—' including Kansas and Nebraska, acting through ' the legally and fairly expressed will of the ma- ' jority of actual residents, and whenever the ' number of their inhabitants justifies it—to form ' a Constitution with or without Slavery, and be ' admitted into the Union upon terms of perfect ' equality with the other States."

This resolution, if not mandatory upon the people of Kansas, ought not to have been disre-

garded by the *party*, at least until after the meeting of their next National Convention. It could not have been anticipated that the President, or any of the parties to such a resolution, would ever have found occasion to waver and evade the force of doctrines so fully expressed. The faith and honor of the party was pledged.

The inaugural address of President Buchanan held up the same key-note, and proclaimed "the 'imperative and indispensable duty of the Govern-'ment of the United States, to secure to every res-'ident inhabitant the free and independent ex-'pression of his opinion by his vote. This sacred 'right of each individual must be preserved."

It was this unequivocal avowal of the President which inspired hopes, in places where "confidence is a plant of slow growth," that the Kansas troubles were about to be fairly and properly adjusted. The good faith and honor of the President of the United States was pledged.

In view of this principle, the instructions of the President, through Secretary Cass, to Gov. Walker, were made out, dated March 30, 1857, where he says the delegates to frame the Constitution have the *right* to be protected in "tranquil 'and undisturbed deliberation," and "when such 'Constitution shall be submitted to the people of 'the Territory, they must be protected in the ex-'ercise of their right of voting for or against that 'instrument, and the fair expression of the popu-'lar will must not be interrupted by fraud or vi-'olence." Here the good faith and honor of the President and his Cabinet were pledged.

Gov. Walker proceeded to the Territory, and, in his first letter to Mr. Cass, declared—

"On one point the sentiment of the people is 'almost unanimous, that the Constitution must 'be submitted for ratification or rejection to a 'vote of the people who shall be *bona fide* resi-'dents next fall."

Kansas, even thus early, was "almost" unanimously pledged, and the people have nowhere revoked the pledge.

In the inaugural address of Gov. Walker, approved by the President and his Cabinet, and at no time disavowed, he zealously labors to convince the people of Kansas that under *his* administration, however they might have suffered from invasion and fraud heretofore, they were to be protected by the strong arm of the United States Government.

"I repeat," he says, "then, as my clear con-'viction, that unless the Convention submit the 'Constitution to the vote of all the actual resi-'dent settlers of Kansas, and the election be 'fairly and justly conducted, *the Constitution will* '*be, and ought to be, rejected by Congress.*"

The whole web of this stately address was enriched and made stiff by similar phrases, as follows:

"But Kansas never can be brought into the 'Union, with or without Slavery, except by a 'previous solemn decision, fully, freely, and fair-'ly made, by a majority of her people, in voting 'for or against the adoption of her State Con-'stitution."

The good faith and honor of Gov. Walker was pledged. To save his honor, *he* loses his office.

These views were emphatically repeated at various places. A Convention of the National Democratic party of Kansas assembled at Lecompton, at which a resolution was proposed, the Governor says, "which was regarded as sub-'stantially against the submission of the Consti-'tution to the vote of the people, was laid on the 'table, as a *test vote*, by a vote of forty-two to 'one."

After this action of the "National Democratic party," composed, as it was, "of a large majority of the leaders of the Pro-Slavery party" of Kansas, acting as elsewhere in concert with the Democratic party, it would be wrong not to infer that nothing less than the submission of the entire Constitution would be satisfactory even to them. Other and direct resolutions were passed by Democratic Conventions, which pledged the good faith and honor of the party in Kansas to provide for a submission to the people and abide an ultimate vote.

Besides this, members of the Convention gave written pledges. John Calhoun, afterwards the President of the Convention, with seven other candidates, published a pledge "To the Democratic Voters of Douglas County," and denounced it as a *slander*, when it was said he was "opposed to submitting the Constitution to the people." The President of the Lecompton Convention was "fully, freely, and without reservation," pledged to a submission.

Not to omit the last link in the chain of the plighted faith of the Democratic party, an extract from the *Union*, the organ as much of the Administration on the 7th of July last as now, when its "instructions return to plague the inventors," will be given:

"Under these circumstances, there can be no 'such thing as ascertaining clearly and without 'doubt, the will of the people, in any way except 'by their own direct expression of it at the polls. 'A Constitution not subjected to that test, no 'matter what it contains, will never be acknowl-'edged by its opponents to be anything but a 'fraud." * * * "We do most devoutly be-'lieve that, unless the Constitution of Kansas be 'submitted to a direct vote of the people, the un-'happy controversy which has heretofore raged 'in that Territory will be prolonged for an in-'definite time to come."

After such a long array of pledges, it is a source of mortification to find that any political necessity should arise, so potent as to break them all in succession, as it approaches to a Punic reflection upon our national character. If Gov. Walker be an exception, it is enough to say that, notwithstanding the glittering compliments with which he was decorated at the outset for his "distinguished public services" and the "high positions" he had "so ably filled," he has been forced to send in his resignation, because he would not violate pledges, which he says *he* could not do without "personal dishonor." It behooves some in authority to see to it that *they* do not retire with greater loss than befell Gov. Walker.

The people of Kansas accepted and relied upon these promises. Through their impassioned utterance and wide promulgation, by the Governor

of the Territory, they obtained evidence for good faith, and restored peace to an embittered and enraged people. They expected, and had a right to expect, the entire fulfilment of pledges made in behalf of the United States Government—made by its authorized agents, by Congress, and the Executive. But when it was ascertained this course would decide the question in favor of Freedom, and against Slavery, then it is no longer expedient, and the majority are not allowed to rule. The whole policy is suddenly changed, and all these pledges are deliberately and wantonly violated.

Notwithstanding the loud claim of entire impartiality, put forth in certain quarters, that it makes no difference whether Kansas is a *free* State or a *slave* State on the question of admission into the Union, this shows that Pro-Slavery men everywhere will, at all costs, deny the legality and expediency of any course which might present Kansas as a *free State.*

REASONS WHY.

There never was but one reason why the Lecompton Constitution was not submitted to the people for their approval or disapproval, and that was openly avowed by its own architects, and admitted by the President, namely—the certainty of its entire and absolute rejection! It is a queer commentary, of the Kansas message, on the Kansas-Nebraska act, and on these pledges, that we should force the Lecompton Constitution upon the people of Kansas, because, "had the 'whole Lecompton Constitution been submitted 'to the people, the adherents of this [Topeka] 'organization would doubtless have voted against 'it." The people of Kansas will not recognise or vote for it, therefore Congress must! Censured for *not* voting, and then *not allowed* to vote when they wanted to vote, and "would doubtless have voted against it!" Censured by the President, outlawed by the majority of this committee, for what is not true, anc if it were true, is no crime, the people of Kansas are now to be *punished* by Congress without investigation and without trial.

The President has stated that Slavery "exists in Kansas by virtue of the Constitution of the United States." To be sure, we have been a long time in finding out the fact that the Constitution *in propria vigore* carries Slavery into all the Territories, and Madison, Jefferson, Hamilton, and Jay, fortunately died in ignorance, as they looked forward to the time of universal emancipation, when it should not be known by anything in the Constitution that Slavery ever existed under it. "The highest tribunal known to our laws," the President avers, have so decided, but this is manifestly a "delusion" of the President, as that tribunal has only intimated what would be its opinion if the case was before it for decision—intimated that it will decide political questions, while its power is limited to judicial questions. It is true, that the majority of this political and *once* the "highest judicial tribunal known to our laws"—claiming power tantamount to that of *changing* the Constitution itself—has intimated a purpose to decide the supposed question as stated by the President, who thereupon, turning his back upon his own unilluminated record, makes haste to ejaculate, "How it could ever have been seriously donbted is a mystery!"

Besides this, a "Constitution with Slavery has been framed in Kansas," in strict accordance with the organic act, as the President says—forgetting that act gave the *Territorial Legislature* no power about forming a Constitution, whatever may be claimed in behalf of the people—and he is "decidedly in favor of its admission," because, among other reasons, its rejection will be so "keenly felt by the people of fourteen of 'the States of this Union where Slavery is recog-'nised under the Constitution of the United 'States." (It would appear that the President does not think "Slavery is recognised" really in any of the States, unless they supported him in the last Presidential conntest, and therefore very properly Maryland is *counted out!*) So far as "it may affect the few thousand inhabitants of Kansas," or the people of the other seventeen States of this Union, it is a question, it appears, of the merest "insignificance." Not to do the President any injustice, we give the whole paragraph:

"In considering this question, it should never 'be forgotten that, in proportion to its insignifi-'cance, let the decision be what it may, so far as 'it may affect the few thousand inhabitants of 'Kansas, who have from the beginning resisted the 'Constitution and the laws, for this very reason 'the rejection of the Constitution will be so 'much the more keenly felt by the people of 'fourteen of the States of this Union, where Sla-'very is recognised under the Constitution of 'the United States."

POWER TO CHANGE.

But, to soften this rigorous condition of Kansas affairs, as presented to Northern men, the President says, "If the delegates who framed the 'Kansas Constitution have in any manner vio-'lated the will of their constituents, *the people al-'ways possess the power to change their Constitution 'or their laws, according to their own pleasure.*"

Is this true? What may be the decision of the "highest tribunal known to our laws?" If *that* should decide the Kansas Constitution as unalterably fixed until 1864, might not the President again cry out, "How it could ever have been seriously doubted is a mystery!"

In the very message of the President in which he insists that in no other manner can Slavery be prohibited so speedily as by admitting Kansas at once into the Union, he nullifies the whole argument by denouncing the Topeka Government,—originated, adopted, and twice ratified, by the people of Kansas Territory, as a "treasonable pertinacity." "It is a usurpation," he says, "of 'the same character as it would be for a por-'tion of the people of any State of the Union to 'undertake to establish a separate Government 'within its limits, for the purpose of redressing 'any grievance, real or imaginary, of which 'they might complain, *against the legitimate State 'Government.* Such a principle, if carried into 'execution, would destroy all lawful authority, 'and produce universal anarchy."

In such a contingency, what the President would feel it his duty to do is clearly indicated in his

letter to the New Haven clergymen, dated August 15, 1857; and it is to be remarked that his subsequent messages are constructed upon this as a model, only that revision has suggested, as in better taste, less claim to Divine approbation, and the entire omission of the fratricidal stab at the Hartford Convention. His language, as it stands in the original document, is:

"This was a usurpation of the same character 'as it would be for a portion of the people of 'Connecticut to undertake to establish a separate 'Government within its *chartered* limits, for the 'purpose of redressing any grievance, real or im-'aginary, of which they might *have complained* 'against the legitimate State Government. Such 'a principle, if carried into execution, would de-'stroy all lawful authority, and produce univer-'sal anarchy."

Now, for what the President would do in a case of "actual collision with the Constitution and the laws" of Kansas:

"Following the wise example of Mr. Madison 'towards the Hartford Convention, illegal and 'dangerous combinations, such as that of the To-'peka Convention, will not be disturbed, unless 'they shall attempt to perform some act which 'will bring them into actual collision with the 'Constitution and the laws. In that event, they 'shall be resisted and put down by the whole 'power of the Government. In performing this 'duty, I shall have the approbation of my own 'conscience, and, as I humbly trust, of my God."

From this it would seem clear that, if the people were to attempt to change their Constitution in any manner not recognised in the Constitution as lawful, the President would put it down as "domestic violence." He would christen it rebellion, and then crush it "by the whole power of the Government." His later published opinions, it is true, set forth principles altogether of a different character; but, when the crisis arrives, to which would the President adhere?

If the majority of the people "can make and unmake Constitutions at pleasure," as the President says, then the minority have no protection in Constitutions, and a majority of the people of the United States, or of Virginia, may assert their power at once, if they choose, to change their domestic institutions and alter the basis of representation, as the President declares "it would be absurd to say they can impose fetters on their own power, which they cannot afterwards remove."

If the President means that the people have a revolutionary right to change their Constitutions at pleasure, or upon sufficient cause, it was hardly necessary to urge a point nowhere disputed. If he means that the people of Kansas not only have this revolutionary right, but that, when the Constitution, in violation of their will, shall be imposed upon them, it will be time to strike the blow, the President and the people of Kansas for once appear to agree. That any portion of our people, however, so long and so happily schooled in the pure doctrines of republicanism, should be driven to this sad extremity, shows that the grievances complained of are *real*, though they have been constantly greeted with mockery. We may well ask, whether it becomes the Government of the United States to force any part of its citizens to resort to revolution and civil war to redress their grievances! The mere necessities of an Executive triumph or of a sectional victory, the stress of technicalities or of passionate partisans, will poorly atone for so dire a calamity as civil war, which goes on to the page of history, if successful, as revolution, but if not successful, as treason. To give the people of Kansas a chance to settle their differences, not by the ballot-box, but by waging battle, invites not only a test of the strength of parties there, but a test of the strength of their external alliances. This would be a public shame, a blot upon the theory of all self-government, which all in executive or legislative authority should struggle to avert.

But the whole doctrine of the President, as to the admission of Kansas being the speediest mode of abolishing Slavery, is, to say the very least, a "delusion," unwarranted by anything in our history, and unworthy of its source. It is deceptive, and cruelly calculated to mislead the people of Kansas. No State, after its admission, can receive any additional power from Congress to alter its Constitution, beyond what it may already have as an independent State. Congress cannot interfere with regard to the Constitution of a State, whether within one year of the date of its admission or sixty years. Once admitted, recognise what we please, condition what we please, the State will disregard the whole, or not, as it suits its convenience. The Lecompton Constitution points out the mode by which it may be changed, as follows:

"SEC. 14. *After the year one thousand eight 'hundred and sixty-four*, whenever the Legisla-'ture shall think it necessary to amend, alter, or 'change this Constitution, they shall recommend 'to the electors at the next general election, *two-'thirds of the members of each House concurring*, 'to vote for or against calling a Convention; and 'if it shall appear that *a majority of all the citi-'zens of the State have voted for a Convention*, the 'Legislature shall, at its next regular session, 'call a Convention, to consist of as many mem-'bers as there may be in the House of Represent-'atives at the time, to be chosen in the same 'manner, at the same places, and by the same 'electors that choose the Representatives; said 'delegates, so elected, shall meet within three 'months after said election, for the purpose of 'revising, amending, or changing the Constitu-'tion, *but no alteration shall be made to affect the 'rights of property in the ownership of slaves.*"

This is the only peaceable and lawful way provided for. Anything in opposition to this would be insurrection and rebellion, to be "put down," as the President has already indicated, "by the whole power of the Government." If Congress has no power to change this provision, the President has as little; though it must be confessed that he might take sides with the revolutionists, and lead them, with the army of the United States, on to victory, and thus put down the Lecompton Constitution; but, judging from the past—invariably having sided with the minority

when they were wrong—he would not forsake them when they chanced to be right.

But suppose the question before the Supreme Court. Did ever Marshall or Story announce a decision based on neighborhood report, or upon "the known will of the people?" Not at all! They pronounced their decisions as based upon Constitutions and the laws of the land. The position of the Supreme Court is not left in doubt by the recent attempt, on their part, by judicial legislation, to extend Slavery, beyond the limits of the States where it existed, into all the free territories of the United States, and which the President has been so swift to recognise as the law of the land. Yet, these judges had no more authority or power, by anything they could say or do, to extend Slavery beyond the limits of the States where it was upheld by local law, than so many other persons, who were never clad in the silken robes of judges! The Pro-Slavery predilections of the present Supreme Court would secure a decision that, if the Constitution provided only one way in which it could be amended, it must be amended in that way, and no other; and this would be their position, because it would be the utterance of a legal truth, and because it would not contravene their own recent judicial enactments.

Again, suppose reliance is had upon the State officers and Legislature, provided for by the Lecompton Constitution, and voted for on the 4th of January last. The result has been reported by Governor Denver to be the election of the Free State men, by considerable majorities. But John Calhoun is the irresponsible agent and ultimate arbiter to decide who is elected and who is not. It is important to know what *he* will do. His *ex parte* statements to Senator Green set down the Free State vote at 7,059, of which 631 he said were *illegally* cast, leaving but 6,428; and against this, appeared 6,581 *legal* Democratic votes, or 153 Pro-Slavery majority. The frauds by which this result is made out are already published.

The whole supplemental connection of Calhoun with the Constitution, and with the election of State officers, is illegal and void. When the Convention adjourned *sine die*, he could have no power conferred upon him, above that of any other member. The whole body was defunct. If there was any legislation required, they could not usurp and take it from the Territorial Legislature. The result is, while it was intended to perpetrate a legislative trick, it is coupled with a gross illegality.

It would be a vain expectation to look for a correction of fraudulent election returns in Kansas, when such a correction would benefit the Free State men, from a Pro-Slavery man, or from a Federal office-holder, with the fate of such heretofore adventurers staring him in the face. This is but another snare for Freedom in the hands of the spoiler. State officers, inducted into power by Mr. Calhoun, would hardly seek for emancipation, but for the establishment of Slavery on a grander scale.

The Surveyor General and President of the Convention can hack out whatever brood he pleases. He has the returns in his pocket. Even the President of the United States has received "no *official* information" of the result. Some of these returns are sworn by the judges of the elections to be forged. Some were not received within the time prescribed in the Constitution. This leaves it in the power of one man, by the process of inclusion or exclusion, to give whatever complexion he chooses to the Legislature. Mr. Calhoun, not being above suspicion, preserves a notable silence—notable, whether constrained or voluntary. Honor and truth covet no mystery. The conclusion is irresistible, that however the close chippings and parings may finally tip the balance, no majority, and far less "*two-thirds* of the members of *each House*," will concur in calling a Convention, and, if they should, it would be void until 1864, under the Lecompton Constitution. In addition to this, a majority of the people, and then a majority of the succeeding Legislature, must also concur.

To perpetuate this power, the elections are only to be held once in two years, and the Senators are to hold their office for four years. So that, whatever may be the complexion of the House, a Pro-Slavery Senate is only to be secured, to hold it check-mated for four years, or until 1862 in any event. For this purpose, a Governor's veto will be equally serviceable at any time.

To understand the atrocious conspiracy, by which the ill-gotten ascendency of the minority of the people of Kansas is to be maintained, it must be remembered that the census and registry of votes, taken in May, 1857, was very incomplete, so far as the Free State voters were concerned, but still it furnished the basis of the apportionment of the Constitutional Convention. The strongholds of Slavery were thus strongly represented, while the strongholds of Freedom were not only misrepresented, but curtailed in the apportionment far below what their numerical strength would have entitled their localities. Now the apportionment in the Constitution not only perpetuates this wrong, but aggravates it by giving to the counties of Johnson, Douglas, and McGee, such representation as they had at the start, and in addition a full acknowledgment for the lusty increase of voters which their fraudulent industry had culled from the Cincinnati Directory and other sources. As an instance, the county of Johnson, with 890 population, had in the first apportionment three delegates. In the last apportionment, it has four members in the lower House, and two Senators. The county of Doniphan, with 4,120 population, in the first apportionment had seven delegates. It now has but four Representatives and one Senator independently, and one jointly with another county.

This will show the utter impossibility of effecting any change in the Lecompton Constitution, though two-thirds of the people should steadily demand and vote for it. There must be nearly an entire unanimity of sentiment in Kansas, to bring about a change in any lawful manner. The fortresses of the Pro-Slavery party have been constructed with the desperation and audacity of criminals besieged, and they can only be demolished, when recognised by Congress, by the

roused forces of indignant freemen, resolved on revolution.

We have seen the promises of the President touching the right of submission of the Constitution to the people of Kansas, and we now have his opinions as to their right of changing the Constitution. The opinions are more worthless than the promises; for, if in this instance the President were to maintain his integrity, he cannot decide the question, and therefore the Lecompton Constitution will be sustained by Lecompton judges.

TOPEKA.

The President calls the Free State Topeka Constitution a "revolutionary Constitution;" and so much has it been denounced, and so little understood, that many people suppose there must be something very wrong about it. It is true it did not originate in violence and fraud, nor under any enabling act of Congress. If any such act was necessary, the Lecompton Constitution is all wrong. It was the free act and deed of the people. This is the doctrine asserted by the President himself, when he insists upon the right of the people, under their organic law, to form a Constitution. He says:

"That this law recognised the right of the people of the Territory, without any enabling act from Congress, to form a State Constitution, is too clear for argument."

If no law from Congress was necessary, none from the Territorial Legislature, the mere creature of Congress, could be absolutely necessary.

In 1855, long before the Lecompton fraud was planned or executed, delegates were elected, in response to the call of a mass Convention, composed of men of all parties, in every election district. All voted who chose to vote, and those who did not vote, on the President's theory, assented, and were thereby bound.

These delegates met at the time and place specified. They formed no Constitution, but arranged for a fair election of delegates to a Constitutional Convention. A proclamation was issued to the legal voters of Kansas. Under this, delegates were elected from the various election precincts, and assembled at Topeka, on the 4th Tuesday of October, 1855. Qualifications of voters, judges of elections, and apportionment, were all attended to in due form. At this election, all voting who chose, 2,710 votes were polled.

This Convention formed a Constitution, republican in all its provisions, and similar to all our State Constitutions, and submitted it for adoption or rejection to the people, on the 15th of December, 1855. It was adopted by a vote of the people of about 2,300, only 46 votes being given against it? Could any action be more fair than that? Even at this early day, it is more than probable a larger number of *legal votes* were given for this Constitution than were given for the Lecompton Constitution. At this session of Congress, a memorial, with over 7,000 signatures, praying for admission under the Topeka Constitution, has been received. There has been no memorial in behalf of the Lecompton "revolutionary organization," and the memorial is a protest seven thousand strong against it.

THE COHERENT LINKS OF FRAUD.

From the beginning, the whole history of Kansas affairs shows that more or less of illegal voting has been practiced at every election, and always by the Pro-Slavery party, protected by Federal bayonets, or shielded by the Federal Government. By the Report of the Kansas Committee of the House, July 2, 1856, and no one material fact of that report, however rudely assailed, has been or can be successfully controverted, the following facts and conclusions were established by unimpeachable testimony:

"First. That each election in the Territory 'held under the organic or alleged Territorial 'law has been carried by organized invasion 'from the State of Missouri, by which the people 'of the Territory have been prevented from exer-'cising the rights secured to them by the organic 'law.

"Second. That the alleged Territorial Legis-'lature was an illegally-constituted body, and 'had no power to pass valid laws, and their en-'actments are therefore null and void."

At the election held November 29, 1854, it was proven, before this committee, that only 1,114 legal votes were cast, and 1,729 *illegal*.

At the election held March 30, 1855, of the 2,905 voters named, only 831 appeared in the census rolls. The number of legal votes given was found to be 1,410, and 4,908 illegal. At the last Congress, this House, by a decided majority, declared that the Assembly thus elected was illegal, and its proceedings void.

At the election of October 1, 1855, so far as was examined, 857 illegal votes were cast, but the examination was incomplete.

At the election held in October, 1857, for the Territorial Legislature, among the most noted frauds were the 1,628 votes in Oxford, Johnson county, where there are but 33 voters, as ascertained by the late census; 1,266 votes in three precincts of McGee county, an Indian reservation with not above 25 to 30 inhabitants.

It is to be noted that, while the instructions of the President were sanctified by all the holier graces, such as—

"Freedom and safety for the legal voter, and '*exclusion and punishment for the illegal one;* THESE 'SHOULD BE GREAT PRINCIPLES OF YOUR ADMINIS-'TRATION." Again: "And the fair expression 'of the popular will must not be interrupted by 'fraud or violence."

Yet, when Gov. Walker and Secretary Stanton presumed to reject these forged returns, for the making of which there was no law to punish—rejected, not as forgeries, but lack of forms which even true returns must have—they were treated with ominous silence. No allusion is made by the Administration to the facts; and, after being frozen with neglect, the Governor and Secretary are superseded. Daring to be honest, they share the fate of Gov. Reeder for a similar offence. A clue to the chagrin of the Executive may be found in the instructions to Gov. Denver, which enjoin that "great care should be taken '*not to exercise any illegal authority.* On this point 'I again refer you to my instructions to Gov. Walk-'er and Secretary Stanton, which you will regard

'as directed to yourself." Upon referring to these, we find as follows: "Thus the Governor 'seems to have been *excluded* from any participa-'tion in the conduct of elections." Again: "But this decision, [of the judges,] *whatever it may be, is final*, so far as the Executive is concerned." This is something of a descent from the lofty tone of "exclusion and punishment for the illegal" voter at the start. *Then* it was, "these should be great principles of your Administration!" Now, if the fraud gets by, or is winked at by the judges, it is *final*, and care must be taken not to exclude the fraud, but to exclude the Governor from the exercise of illegal authority! The first instructions were for show, and the last for use. Whenever *illegal voters* were excluded, then the President's ox is gored.

At the elections of December 21st and January 4th last, it is known that further frauds were perpetrated with wonted *regularity* and *in due form of law*. A brief extract from the report of the Board of Commissioners, appointed by the Legislature, to his Excellency J. W. Denver, Governor of Kansas Territory, will fully disclose its character. They say:

"From the evidence taken before them, the 'Board state that the returns from the Delaware 'Agency precinct were honestly made out by the 'officers of the election; and subsequently three 'hundred and thirty-six names were forged upon 'them, by or with the knowledge of John D. 'Henderson; and that John Calhoun was *particeps criminis* after the fact.

"The Board report, that of the votes return-'ed of the election of the 21st December, 1857, 'on the Slavery clause of the Constitution fram-'ed at Lecompton, held at the precincts of Kick-'apoo, Delaware, Oxford, and Shawnee, about 'the following numbers were illegal and fraudu-'lent:

"At Kickapoo - - - - -	700
"At Delaware city - - - -	145
"At Oxford - - - - -	1,200
"At Shawnee - - - - -	675
"Total - - - - -	2,720

'And of the votes returned of the election of 'the 4th of January, 1858, for officers under the 'Constitution framed at Lecompton, held at the 'precincts of Kickapoo, Delaware city, Delaware 'Agency, Oxford, and Shawnee, about the fol-'lowing numbers were illegal and fraudulent:

"At Kickapoo - - - - -	600
"At Delaware city - - - -	5
"At Delaware Agency - - -	336
"At Oxford - - - - -	696
"At Shawnee - - - - -	821
"Total - - - - -	2,458

It will be seen, that of the 6,143 votes counted in the "official returns," 2,720 were fraudulent, which being deducted, leave but 3,423 votes for the Lecompton Constitution, and many of these were doubtless of the same character as those of Kickapoo and Oxford. Yet, according to the report of the majority of this committee, "the legality and regularity of the whole are marked 'throughout. Every step in its progress was 'taken in strict conformity to law. But little 'appears on the face of the record, even for com-'ment!"

Thus it is seen that the whole series of elections, in Kansas, have been vitiated by fraud. If the people went to the polls, they were overwhelmed by a deluge of foreign intruders. When these were not present in sufficient force, then the Territorial officers defeated the will of the resident people by false returns—despoiling the dead and the living of their good names in the service of frauds so magnificent in proportions that they obtained some credit from that charity which was unwilling to ascribe so great depravity to any portion of humanity.

We think it the duty of Congress to pass over all these Kansas elections, and let the people there start anew. Otherwise, Congress will prove but the shield of fraud. If fraud is to be protected by Congress, as well as by the Executive and the "highest judicial tribunal known to our laws," whenever it can wage a successful contest at the ballot-box, or with the returns of elections, then a despotism is already installed in our land, and vice is secure in an hereditary reign over virtue. Fraud and violence will become the invited masters over law and order.

No truthful observer, no fair-minded man, will assert the Lecompton Constitution to be the *act and deed* of the people of Kansas, or that it is made in accordance with the will of the majority of the people of the Territory. No vote of the Pro-Slavery party, however swollen by frauds, approaches in numbers that of the Free State party, whenever they have pretended to go to the polls. The public voice of these people, wherever uttered, whether by conventions of the masses of citizens or by the press, gives forth no uncertain sound. The tomb-stones of all the decapitated Governors of Kansas will record the fact that a large majority of the people of Kansas were Free State men. Southern men affect to only expect a temporary enforcement of Slavery. The existing Territorial Legislature is overwhelmingly a Free State Legislature, and their legislative proceedings indicate the profound detestation in which they hold the Lecompton Constitution. They may not show discretion or moderation, but "something must be pardoned to the spirit of Liberty!"

THE CONSTITUTION PROPOSED BY CALHOUN NOT THE ONE CONGRESS PROPOSES.

If the Constitution confers upon Congress certain powers, by no act of Congress, or passing remark of the Supreme Court, can they be expunged from the Constitution. The non-use of such powers, or their denial, binds nobody, and they may be reasserted at the pleasure of Congress. In spite of all previous Congressional abnegation, in spite of all squatter sovereignty, it will be reasserted in any bill which may be proposed for the admission of Kansas. No one proposes to admit *the whole* of what John Calhoun has certified to be the Constitution of Kansas, but it is proposed to hullify and slide over it by saying the exceptional part forms no part of the Constitution. As though the Convention were merely joking! The Ordinance, which comes as

a legal and binding part of the Lecompton Constitution, secured to Kansas a large amount of public lands. The Convention so understood it. Hear them:

"The within is a true and perfect copy of the *Ordinance* adopted by the Constitutional Convention, *and submitted as part of the Constitution* by the Convention which assembled at Lecompton on the 5th day of September, A. D. 1857." J. CALHOUN,

President Constitutional Convention.

"*Lecompton, K., T., January* 14, 1858."

But Congress does not propose to agree to that at all, and will reject it, though submitted in due form, and as solemnly as that which we are to receive and adopt. The part we *accept* is objectionable to the people of Kansas, though agreeable to the Administration here. The part we *reject* is agreeable to the people of Kansas, but finds no favor here.

THE REJECTION OF THE CONSTITUTION THE ONLY VALID THING ABOUT IT.

Should it be conceded that the Free State men, by going into the election of October, 1857, have waived all objections to the validity of any prior elections, it would be monstrous then to turn round and say, that, although the Legislature was a valid one, its acts are not. When the people keep away from the polls, they are stubborn, "*mala fide* inhabitants," to be subjected to those who do go to the polls. When the indisputable majority do go to the polls, they have no power to escape from the yoke of the minority, or to "change its character," and their going to the polls at all, is a kind of impudence to be interpreted as "recognising its valid existence." The President is hard to please. This is what he says in his Kansas message:

"It is proper that I should briefly refer to the election held under an act of the Territorial Legislature, on the first Monday of January last, on the Lecompton Constitution. This election was held after the Territory had been prepared for admission into the Union as a sovereign State, and when no authority existed in the Territorial Legislature which could possibly destroy its existence or change its character. The election, which was peaceably conducted under my instructions, involved a strange inconsistency. A large majority of the persons who voted against the Lecompton Constitution were at the very same time and place recognising its valid existence in the most solemn and authentic manner, by voting under its provisions. I have yet received no official information of the result of this election."

Many of the Free State men refused to go into this election, because they foresaw this jesuitical charge of "inconsistency," but enough did participate, under protest, to wholly control its results. They did not, however, undertake to destroy the work of the Convention, as perhaps they might, but in a peaceable and orderly manner they undertook to untie the hands of the people, and let them, in their highest sovereign capacity, break the fetters about to be imposed upon them.

The approval or disapproval of the work of the Convention, as contemplated by itself, was yet unexecuted. The act of the Legislature did not curtail, but extended to the people, this fundamental right. How can its fairness or its legality be impeached? When it suits the President's purpose, he asserts the same doctrine. Thus:

"The will of the majority is supreme and irresistible, when expressed in an *orderly and lawful* manner. They can make and unmake Constitutions at pleasure. It would be *absurd*, to say that they can *impose fetters* upon their own power, *which they cannot afterwards remove*. If they could do this, they might tie their own hands for a hundred as well as for ten years. These are fundamental principles of American freedom," &c.

By this, it would seem that the President concedes the irresistible power of the majority to "make and unmake Constitutions at pleasure;" but then it is wholly inoperative, so far as the Lecompton Constitution is concerned! What is it that makes that so sacred? If a majority can change a Constitution at will, cannot a majority change a mere law? The Convention, empowered only to make a Constitution, may legislate as much as it pleases, repeal "the bill incorporating banks," and prevent the Territorial Legislature from all further exercise of legislative authority, while the Legislature itself cannot move to protect itself or the people! This is too absurd for serious argument.

If a Convention cannot put fetters on to the people to bind them, far less can a Legislature bind its successors in office not to alter or repeal any of its acts. The properly-elected Territorial Legislature of Kansas, with the sanction of the acting Governor, and in obedience to his recommendation, passed an act, on the 17th of December, 1857, conceded to be proper in itself, which the President admits would have been proper and binding if it had been passed by its predecessors, submitting the *whole* Constitution to a vote of the people, submitting it also *with* Slavery and also *without*. The result of that election was duly certified by the acting Governor. If the President is without "official information," it is because he knows how to be without what he does not want. There is no legal flaw in the whole proceeding. It was as binding in all its legal consequences as any act of a Territorial Legislature could be. It had all the moral weight of the people. If any part of the people refused to go to the polls, never could it be so justly said that it was their fault. In point of fact, a larger number of legal voters did go to the polls than ever upon any prior election. It was a fair election, conducted in an "orderly and lawful manner." No accusation of fraud has been made against it. And at this election, the Lecompton Constitution was rejected by a vote of more than ten thousand majority. This was its legal and final overthrow, and places it beyond resurrection even by Congress.

The power to admit new States into the Union gives to Congress no power to coerce the people of a Territory into the Union or into the acceptance of a State Constitution. If we may force a

Pro-Slavery State *in*, we may force an "Abolition" State *out*. The agents who come here are no more authorized to act in behalf of Kansas than of Nicaragua, and Congress may as rightfully admit one as the other. Gen. William Walker and John Calhoun stand on a level as representatives of popular sovereignty.

On the 4th of January, 1858, the Lecompton Constitution received its legal condemnation and execution. Not being a legal instrument in its formation in any sense, the only thing legal about it is its rejection. There is no galvanic battery of the Executive now that can give its bantling, so long dead that it has became a stench in the nostrils of the whole people, any further vitality. Unless Congress shall assert a power equal to making a Constitution *de novo* for a State, this Lecompton Constitution will be rejected.

The President thought the charge preferred against him by the New Haven clergymen, that he was employing the *army* "to force the people of Kansas to obey laws not their own, nor of the United States"—if well founded—"ought to consign his name to infamy." How can we escape the same doom, if we employ the legislative power of the Government for the same purpose?

To impose a Constitution upon State without unequivocal evidence that it has substantially the sanction of the majority of the people to be affected thereby, is not only a violation of the political rights of freemen, but a gross and palpable violation of the Constitution of the United States, which guaranties to all the States a republican form of Government, the very essence of which presupposes the "consent of the governed."

The statements made in this report are founded upon official documents and conceded facts; but if any should be disputed, we fearlessly challenge such an investigation as will put their accuracy to the severest test. There is no scrutiny that we do not court, as there is no truth that we do not seek. The whole purpose of the committee having been thwarted by the refusal of the majority to enter upon a full and fair investigation, we submit that the facts already proven are enough to establish the positions we maintain, to the fullest extent.

1. That an investigation ought to have been had by a committee with the power and disposition to send for persons and papers.

2. That the President has been misinformed and badly advised "in relation to the condition of parties in Kansas." Though he says, "a *great delusion* seems to pervade the public mind," it is quite apparent that the public might with greater justice say, "*thou thyself beholdest not the beam that is in thine own eye.*"

3. That in proportion as Congress has relaxed its power over Territories, that of the Executive has increased, and that all difficulties cannot be removed until Congress shall resume its entire constitutional authority.

4. That the maligned Topeka Constitution was the act of the people of Kansas, accords more with the will of her people than any other, and is more entitled to the respect of Congress.

5. That the plighted faith of the nation was pledged to the people of Kansas, that any Constitution which might be made, should be submitted by its framers to them for their approval or disapproval; and this has not been done.

6. That there is not unimpeachable evidence to show that the Constitution presented by John Calhoun is an identical copy of the one agreed upon by the Lecompton Convention before its adjournment.

7. That the Lecompton Constitution was illegal in its inception, and therefore void; and, if this were not so, through the action of the Territorial Legislature, the people have been enabled fairly and legally to vote for or against it, and have emphatically rejected it.

Not doubting the sincerity of the President, when he says, "domestic peace will be the happy consequence" of the immediate admission of Kansas into the Union under the Lecompton Constitution, we yet are constrained to say, that, in our deliberate judgment, the President overestimates the docility of the nation, and particularly that of the people of Kansas. "Domestic peace" cannot be obtained by trampling down the rights of any portion of the people. The measure is not expedient, even if it were just; but it is clearly wrong.

The idea that Kansas must be admitted as a slave State in order to satisfy the States "where Slavery is recognised," that it is *not* the fixed purpose to admit no more slave States into the Union, is even less tolerable. It will be time enough to raise that question, when a slave State offers itself for admission. To force a free State into the Union, *as a slave State*, will test the question more keenly than may be desirable, and the project should be dismissed as a dangerous experiment.

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